IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.241 OF 2006

Commissioner of Service Tax ..Appellant.

V/s.

M/s.Lark Chemicals ..Respondent.

Mrs.N.V.Masurkar with L.B.Patne for appellant.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 30TH AUGUST, 2007.

P.C. :-

This is an appeal against the order dated 1/12/2005 wherein the Tribunal recorded a finding that section 80 has overriding effect on sections 76, 77, 78 and 79 of the Service Tax Act. The Commissioner (Appeals) considering section 80 has reduced the penalty. There is no question of any legal infirmity in the order.

2. The appeal is filed in terms of the questions of law as formulated in paragraph 4 of the appeal memo. We have already held in other matters that section 76 is subject to section 80 and there is discretion to reduce the penalty.

3. Once that is the case, we do not find any infirmity in the order of the Tribunal. The question as framed would not arise, therefore, appeal dismissed.

(J.P.DEVADHAR, J.) **(F.I.REBELL0, J.)**